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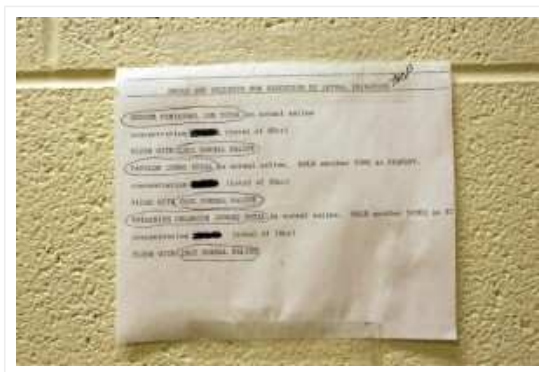
Global Justice Academy Blog

Global Justice Academy, University of Edinburgh

We kill people to tell people that killing people is wrong?

Posted on **April 30, 2014** by **Harriet Cornell**

Harriet Cornell is the Development Officer for the Global Justice Academy. In this guest post, she reports on the botched execution of Clayton Lockett in Oklahoma, and the state of the death penalty in the United States.



- In 2005, this memo was posted next to the death chamber at the Southern Ohio Correctional Facility in Lucasville, Ohio. Credit: AP File Photo

The state of Oklahoma executed Clayton Lockett at 6pm local time on Tuesday 29 April 2014. Or, according to widespread news reports and [a statement from Robert Patton \(Director of Oklahoma Department of Corrections\)](#), the state attempted to execute Lockett but failed, and he died 43 minutes later from a massive heart attack. Charles Warner was due to follow Lockett to the gurney at 8pm, but has been granted a 14-day stay by Governor Mary Fallin, pending an investigation into what happened in that execution chamber.

The story made the headlines in the UK this morning. *The Guardian* witnessed Lockett's execution ('Botched Oklahoma execution leaves inmate writhing on gurney'); the BBC reported 'Oklahoma inmate dies after 'botched' lethal injection'. The *Daily Mail* (not known for being liberal) reported '[Killer dies of heart attack after forty minutes writhing in agony](#)'; and in the US, Fox News (again, no liberal outfit) led with '[Oklahoma inmate dies of heart attack after botched execution](#)'. The American Civil Liberties Union of Oklahoma summed up with '[our state has disgraced itself](#)'.

The US stands with an unlikely collective of nations that still practise capital punishment. [Amnesty international reports this as 'an increasingly isolated group of entrenched executioners'](#), led by Iraq

and Iran in 2013. 778 people were reported to have been executed worldwide (excluding China) in 2013. 39 of these took place in the US, down from a modern high of 98 in 1999.

The botched execution of Clayton Lockett strikes at the heart of an increasingly uneasy debate around capital punishment in the United States. American public opinion for capital punishment is declining nationwide, if not for ethical reasons then for financial ones.

What are the key issues surrounding capital punishment in the United States? Two clear points of debate have emerged from the scenes in Oklahoma last night:

1) Secrecy

As state supplies of the 'traditional' execution drugs (sodium thiopental; pentobarbital; pancuronium bromide; potassium chloride; propofol) have become exhausted, Departments of Corrections are turning to unregulated compounding pharmacies to mix execution drugs, and trialling new cocktails with worrying outcomes in Florida, Ohio, and now Oklahoma. An investigation by public radio in Missouri found that the state was sourcing drugs from a pharmacy in Oklahoma, which had been asked to sign a non-disclosure agreement. Preceding this, debate has raged over secrecy around the insertion of IV lines into prisoners' arms (and sometimes legs, wrists, ankles, groins...) in, for example, Arizona.

2) Constitutional wrangling

Until last night, Clayton Lockett's legal team had fought to get the State to disclose details of the drugs intended for his execution. Neither the Oklahoma Court of Criminal Appeals, nor the Oklahoma Supreme Court could agree on under whose jurisdiction the matter fell. On 21 April, *The Atlantic* reported that the judiciary was in open warfare: 'there is a dispute between the courts over whether the issues raised by the prisoners are 'civil' or 'criminal' in nature. It's like a skit from *Alphonse and Gaston*'.

These 'new' issues can be added to a comprehensive laundry list of problems with capital punishment in the US:

1) Adequate representation at trial (socioeconomic bias)

People who are well represented at trial do not get the death penalty ... I have yet to see a death case among the dozens coming to the Supreme Court on eve-of-execution stay applications in which the defendant was well represented at trial. US Supreme Court Justice Ruth Bader Ginsburg, speaking at the University of the District of Columbia, April 2001.

2) Racial bias

The subject of numerous academic studies, including a recent report from the University of Washington concluding that jurors in the state are three times more likely to recommend a death sentence for a black defendant than for a white defendant in a similar case.

3) Intellectual disability

In 2012, it was reported that the state of Texas used the fictional character of Lenny Small from John Steinbeck's *Of Mice and Men* as a 'benchmark to identify whether defendants with intellectual disability should live or die'.

4) Geographical bias

Just two per cent of US counties are responsible for most of the nation's executions since reinstatement.

5) Actual innocence

Today's news reports follow yesterday's headlines that **25% of death row inmates are statistically likely to be innocent**. Witness to Innocence reports that there are now **144 death row exonerees** in the US, thanks to DNA testing. On 31 January 2001, Illinois Governor George Ryan imposed a moratorium on executions because of **'grave concerns about our state's shameful record of convicting innocent people'**. Illinois abolished capital punishment in 2011.

These are huge issues worthy of better debate than in one blog post. But there is a more basic concern that has arisen from the fate of Clayton Lockett.

On this morning's edition of Radio Four's *Today* programme, the news bulletin stated that lethal injection was introduced in the US as a 'humane' way to kill. Is there such a thing?



— The Texas death chamber, Huntsville Credit:
TDCJ.state.tx.gov

For all its flaws, a cursory watch of the movie *The Green Mile* might raise some doubts about the electric chair. Werner Herzog's brilliant *Into the Abyss: a Tale of Death, a Tale of Life* was so stressful to film (at Texas' infamous **Polunsky Unit**), that the director took up chain smoking. The harrowing **BBC documentary *Fourteen Days in May***, which follows Edward Earl Johnson to Mississippi's gas chamber in 1987, is something else entirely; leading his lawyer (Reprieve's Director, Clive Stafford-Smith) to conclude it is 'a sick world we live in'. It is now believed that **Johnson was likely innocent** – but that, again, is a separate issue.

Even before Departments of Corrections started running low and then running out of lethal drugs (thanks to restrictions from EU-based drugs companies and Reprieve's **'Stop the Lethal Injection Project'**), **that lethal injection is a 'humane' way to die has been contested**. On the one hand, US Supreme Court Justice Antonin Scalia's interpretation of the Constitution allows him to judge 'improvements' like **the electric chair as constitutional and out with the Eighth Amendment on cruel and unusual punishment**. In the same vein, Scalia has gone on to state that lethal injection is certainly **less painful than hanging**.

On the other hand, the abolitionist Death Penalty Information Center [catalogues post-Furman botched executions](#). Of 44 examples listed, 32 of those botched attempts were via lethal injection compared to 10 via electrocution and 2 via asphyxiation. Most executions in the 'modern era' have used lethal injection, which helps explain this distribution. But this (nonetheless) challenges the assumption that lethal injection is an easy, painless way to die.

With lethal injection, collapsing veins are a well-documented 'problem'. [Mary Fallin attributed last night's botched execution to Lockett's veins 'collapsing'](#) during the administration of the three-drug cocktail. Her statement does not mention the State's choice of drugs, nor from where they were obtained, and maintains that Lockett ['remained unconscious after the lethal injection drugs were administered'](#). Read any of the news reports from major US and UK outlets and there are descriptions of Lockett writhing, clenching his teeth, struggling violently, and lifting his shoulders and head from the gurney. This was 16 minutes after the drugs were administered and resulted in the execution being halted. Lockett died half an hour later. There's a good article on Think Progress about the [uneasy relationship between medicine and executions](#).

Governor Fallin has a reputation for her hard stance on justice issues: in her first two years as Governor, she [approved only 53% of the parole cases she reviewed](#). Her predecessor approved more than 80%. On 25 June 2013, Brian Darrell Davis died by lethal injection after [Fallin rejected the state parole board's 4-1 recommendation](#) to reduce his sentence to life without the possibility of parole.

Although [reports from the UK suggest that popular support of capital punishment is declining](#), in February 2008, an online survey by YouGov of 2,011 Brits found that 50% of respondents felt that [the death penalty should be reinstated](#). **Look at some of the comments beneath reports from Clayton Lockett's botched execution:**

'All that matter is he died. A life for a life' (Mail Online);

'Justice and retribution were united...well done Oklahoma' (*The Guardian*);

'poor murderers are now suffering. Too bad.' (Huffpost)

'got what he deserved' (*The Independent*)

'All this faffing around with drugs. The simple foolproof [sic] solution is asphyxiation with nitrogen. Pleasant and relaxing...' (*The Independent*)

Fewer have taken the opposing view:

'Horrrifying...a medieval form of 'justice'' (HuffPost);

'Torture remains alive and well in Oklahoma' (HuffPost);

'The death penalty can never be defended' (*The Independent*);

Mibh76 sums it up, commenting on *The Guardian's* article: 'Gandhi once said an eye for an eye leaves everyone blind. Considering this is one of the most liberal of newspapers the tone of a high proportion of these comments is really quite saddening'.

It is a compelling case for the civilising influence of representative democracy.

Meanwhile, Director of the Death Penalty Information Center, Richard Dieter, spoke to the Associated Press last night: 'This could be a real turning point in the whole debate as people get disgusted by this sort of thing. This might lead to a halt in executions until states can prove they can do it without problems. Someone was killed tonight by incompetence'.

We shall have to wait and see.

This entry was posted in **death penalty**, **Human rights**, **incarceration**, **Inequalities**, **Punishment**, **Torture**, **USA** by **Harriet Cornell**. Bookmark the **permalink** [<http://www.globaljusticeblog.ed.ac.uk/2014/04/30/lockett/>].



About Harriet Cornell

Global Justice Academy Development Officer, Visiting Lecturer and Tutor in History at the University of Edinburgh

[View all posts by Harriet Cornell](#) →

ONE THOUGHT ON "WE KILL PEOPLE TO TELL PEOPLE THAT KILLING PEOPLE IS WRONG?"



Harriet Cornell

on **June 15, 2014 at 6:07 pm** said:

US news outlets are now commenting on results from the independent autopsy carried out on Clayton Lockett. Rather than ineffectual drugs, the report concludes that the IV lines were not inserted correctly and only 'punctured' the vein.

Mother Jones: <http://www.motherjones.com/mojo/2014/06/autopsy-clayton-lockett-botched-execution-oklahoma>

Time: <http://time.com/2871154/clayton-lockett-botched-execution-due-to-iv-problems/>

The Telegraph:

<http://www.telegraph.co.uk/news/worldnews/northamerica/usa/10899659/Oklahoma-death-row-prisoner-Clayton-Lockett-autopsy-finds-puncture-marks.html>

The autopsy report can be read here:

<https://docs.google.com/file/d/0BxR5nee8pBYQQktuNmtaV0pGS2ZhMF8yZ3g0QU1ZcWI0UWdz/edi>